

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# SENATE BILL 1037

AN ACT

AMENDING SECTION 8-341, ARIZONA REVISED STATUTES; RELATING TO JUVENILE  
OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-341, Arizona Revised Statutes, is amended to  
3 read:

4 8-341. Disposition and commitment: definitions

5 A. After receiving and considering the evidence on the proper  
6 disposition of the case, the court may enter judgment as follows:

7 1. It may award a delinquent juvenile:

8 (a) To the care of the juvenile's parents, subject to the supervision  
9 of a probation department.

10 (b) To a probation department, subject to any conditions the court may  
11 impose, including a period of incarceration in a juvenile detention center of  
12 not more than one year.

13 (c) To a reputable citizen of good moral character, subject to the  
14 supervision of a probation department.

15 (d) To a private agency or institution, subject to the supervision of  
16 a probation officer.

17 (e) To the department of juvenile corrections.

18 (f) To maternal or paternal relatives, subject to the supervision of a  
19 probation department.

20 (g) To an appropriate official of a foreign country of which the  
21 juvenile is a foreign national who is unaccompanied by a parent or guardian  
22 in this state to remain on unsupervised probation for at least one year on  
23 the condition that the juvenile cooperate with that official.

24 2. It may award an incorrigible child:

25 (a) To the care of the child's parents, subject to the supervision of  
26 a probation department.

27 (b) To the protective supervision of a probation department, subject  
28 to any conditions the court may impose.

29 (c) To a reputable citizen of good moral character, subject to the  
30 supervision of a probation department.

31 (d) To a public or private agency, subject to the supervision of a  
32 probation department.

33 (e) To maternal or paternal relatives, subject to the supervision of a  
34 probation department.

35 B. If a juvenile is placed on probation pursuant to this section, the  
36 period of probation may continue until the juvenile's eighteenth birthday,  
37 except that the term of probation shall not exceed one year if all of the  
38 following apply:

39 1. The juvenile is not charged with a subsequent offense.

40 2. The juvenile has not been found in violation of a condition of  
41 probation.

42 3. The court has not made a determination that it is in the best  
43 interests of the juvenile or the public to require continued supervision.

1 The court shall state by minute entry or written order its reasons for  
2 finding that continued supervision is required.

3 4. The offense for which the juvenile is placed on probation does not  
4 involve the discharge, use or threatening exhibition of a deadly weapon or  
5 dangerous instrument or the intentional or knowing infliction of serious  
6 physical injury on another.

7 5. The offense for which the juvenile is placed on probation does not  
8 involve a violation of title 13, chapter 14 or 35.1.

9 6. Restitution ordered pursuant to section 8-344 has been made.

10 C. If a juvenile is adjudicated as a first time felony juvenile  
11 offender, the court shall provide the following written notice to the  
12 juvenile:

13 You have been adjudicated a first time felony juvenile  
14 offender. You are now on notice that if you are adjudicated of  
15 another offense that would be a felony offense if committed by  
16 an adult and if you commit the other offense when you are  
17 fourteen years of age or older, you will be placed on juvenile  
18 intensive probation, which may include home arrest and  
19 electronic monitoring, or you may be placed on juvenile  
20 intensive probation and may be incarcerated for a period of time  
21 in a juvenile detention center, or you may be committed to the  
22 department of juvenile corrections or you may be prosecuted as  
23 an adult. If you are convicted as an adult of a felony offense  
24 and you commit any other offense, you will be prosecuted as an  
25 adult.

26 D. If a juvenile is fourteen years of age or older and is adjudicated  
27 as a repeat felony juvenile offender, the juvenile court shall place the  
28 juvenile on juvenile intensive probation, which may include home arrest and  
29 electronic monitoring, may place the juvenile on juvenile intensive  
30 probation, which may include incarceration for a period of time in a juvenile  
31 detention center, or may commit the juvenile to the department of juvenile  
32 corrections pursuant to subsection A, paragraph 1, subdivision (e) of this  
33 section for a significant period of time.

34 E. If the juvenile is adjudicated as a repeat felony juvenile  
35 offender, the court shall provide the following written notice to the  
36 juvenile:

37 You have been adjudicated a repeat felony juvenile  
38 offender. You are now on notice that if you are arrested for  
39 another offense that would be a felony offense if committed by  
40 an adult and if you commit the other offense when you are  
41 fifteen years of age or older, you will be tried as an adult in  
42 the criminal division of the superior court. If you commit the  
43 other offense when you are fourteen years of age or older, you  
44 may be tried as an adult in the criminal division of the

1 superior court. If you are convicted as an adult, you will be  
2 sentenced to a term of incarceration. If you are convicted as  
3 an adult of a felony offense and you commit any other offense,  
4 you will be prosecuted as an adult.

5 F. The failure or inability of the court to provide the notices  
6 required under subsections C and E of this section does not preclude the use  
7 of the prior adjudications for any purpose otherwise permitted.

8 G. Except as provided in subsection S of this section, after  
9 considering the nature of the offense and the age, physical and mental  
10 condition and earning capacity of the juvenile, the court shall order the  
11 juvenile to pay a reasonable monetary assessment if the court determines that  
12 an assessment is in aid of rehabilitation. If the director of the department  
13 of juvenile corrections determines that enforcement of an order for monetary  
14 assessment as a term and condition of conditional liberty is not  
15 cost-effective, the director may require the youth to perform an equivalent  
16 amount of community restitution in lieu of the payment ordered as a condition  
17 of conditional liberty.

18 H. If a child is adjudicated incorrigible, the court may impose a  
19 monetary assessment on the child of not more than one hundred fifty dollars.

20 I. A juvenile who is charged with unlawful purchase, possession or  
21 consumption of spirituous liquor is subject to section 8-323. The monetary  
22 assessment for a conviction of unlawful purchase, possession or consumption  
23 of spirituous liquor by a juvenile shall not exceed five hundred dollars.  
24 The court of competent jurisdiction may order a monetary assessment or  
25 equivalent community restitution.

26 J. The court shall require the monetary assessment imposed under  
27 subsection G or H of this section on a juvenile who is not committed to the  
28 department of juvenile corrections to be satisfied in one or both of the  
29 following forms:

30 1. Monetary reimbursement by the juvenile in a lump sum or installment  
31 payments through the clerk of the superior court for appropriate  
32 distribution.

33 2. A program of work, not in conflict with regular schooling, to  
34 repair damage to the victim's property, to provide community restitution or  
35 to provide the juvenile with a job for wages. The court order for  
36 restitution or monetary assessment shall specify, according to the  
37 dispositional program, the amount of reimbursement and the portion of wages  
38 of either existing or provided work that is to be credited toward  
39 satisfaction of the restitution or assessment, or the nature of the work to  
40 be performed and the number of hours to be spent working. The number of  
41 hours to be spent working shall be set by the court based on the severity of  
42 the offense but shall not be less than sixteen hours.

1 K. If a juvenile is committed to the department of juvenile  
2 corrections, the court shall specify the amount of the monetary assessment  
3 imposed pursuant to subsection G or H of this section.

4 L. After considering the length of stay guidelines developed pursuant  
5 to section 41-2816, subsection C, the court may set forth in the order of  
6 commitment the minimum period during which the juvenile shall remain in  
7 secure care while in the custody of the department of juvenile corrections.  
8 When the court awards a juvenile to the department of juvenile corrections or  
9 an institution or agency, it shall transmit with the order of commitment  
10 copies of a diagnostic psychological evaluation and educational assessment if  
11 one has been administered, copies of the case report, all other psychological  
12 and medical reports, restitution orders, any request for postadjudication  
13 notice that has been submitted by a victim and any other documents or records  
14 pertaining to the case requested by the department of juvenile corrections or  
15 an institution or agency. The department shall not release a juvenile from  
16 secure care before the juvenile completes the length of stay determined by  
17 the court in the commitment order unless the county attorney in the county  
18 from which the juvenile was committed requests the committing court to reduce  
19 the length of stay. The department may temporarily escort the juvenile from  
20 secure care pursuant to section 41-2804, may release the juvenile from secure  
21 care without a further court order after the juvenile completes the length of  
22 stay determined by the court or may retain the juvenile in secure care for  
23 any period subsequent to the completion of the length of stay in accordance  
24 with the law.

25 M. Written notice of the release of any juvenile pursuant to  
26 subsection L of this section shall be made to any victim requesting notice,  
27 the juvenile court that committed the juvenile and the county attorney of the  
28 county from which the juvenile was committed.

29 N. Notwithstanding any law to the contrary, if a person is under the  
30 supervision of the court as an adjudicated delinquent juvenile at the time  
31 the person reaches eighteen years of age, treatment services may be provided  
32 until the person reaches twenty-one years of age if the court, the person and  
33 the state agree to the provision of the treatment and a motion to transfer  
34 the person pursuant to section 8-327 has not been filed or has been  
35 withdrawn. The court may terminate the provision of treatment services after  
36 the person reaches eighteen years of age if the court determines that any of  
37 the following applies:

- 38 1. The person is not progressing toward treatment goals.
- 39 2. The person terminates treatment.
- 40 3. The person commits a new offense after reaching eighteen years of  
41 age.
- 42 4. Continued treatment is not required or is not in the best interests  
43 of the state or the person.

1           O. On the request of a victim of an act that may have involved  
2 significant exposure as defined in section 13-1415 or that if committed by an  
3 adult would be a sexual offense, the prosecuting attorney shall petition the  
4 adjudicating court to require that the juvenile be tested for the presence of  
5 the human immunodeficiency virus. If the victim is a minor the prosecuting  
6 attorney shall file this petition at the request of the victim's parent or  
7 guardian. If the act committed against a victim is an act that if committed  
8 by an adult would be a sexual offense or the court determines that sufficient  
9 evidence exists to indicate that significant exposure occurred, it shall  
10 order the department of juvenile corrections or the department of health  
11 services to test the juvenile pursuant to section 13-1415. Notwithstanding  
12 any law to the contrary, the department of juvenile corrections and the  
13 department of health services shall release the test results only to the  
14 victim, the delinquent juvenile, the delinquent juvenile's parent or guardian  
15 and a minor victim's parent or guardian and shall counsel them regarding the  
16 meaning and health implications of the results.

17           P. If a juvenile has been adjudicated delinquent for an offense that  
18 if committed by an adult would be a felony, the court shall provide the  
19 department of public safety Arizona automated fingerprint identification  
20 system established in section 41-2411 with the juvenile's fingerprints,  
21 personal identification data and other pertinent information. If a juvenile  
22 has been committed to the department of juvenile corrections the department  
23 shall provide the fingerprints and information required by this subsection to  
24 the Arizona automated fingerprint identification system. If the juvenile's  
25 fingerprints and information have been previously submitted to the Arizona  
26 automated fingerprint identification system the information is not required  
27 to be resubmitted.

28           Q. Access to fingerprint records submitted pursuant to subsection P of  
29 this section shall be limited to the administration of criminal justice as  
30 defined in section 41-1750. Dissemination of fingerprint information shall  
31 be limited to the name of the juvenile, juvenile case number, date of  
32 adjudication and court of adjudication.

33           R. If a juvenile is adjudicated delinquent for an offense that if  
34 committed by an adult would be a misdemeanor, the court may prohibit the  
35 juvenile from carrying or possessing a firearm while the juvenile is under  
36 the jurisdiction of the department of juvenile corrections or the juvenile  
37 court.

38           S. ~~The court shall order~~ IF a juvenile ~~who~~ is adjudicated delinquent  
39 for a violation of section 13-1602, subsection A, paragraph 5, **THE COURT**  
40 **SHALL ORDER THE JUVENILE** to pay a fine of at least three hundred dollars but  
41 not more than one thousand dollars. Any restitution ordered shall be paid in  
42 accordance with section 13-809, subsection A. The court may order the  
43 juvenile to perform community restitution in lieu of the payment for all or  
44 part of the fine if it is in the best interests of the juvenile. The amount

1 of community restitution shall be equivalent to the amount of the fine by  
2 crediting any service performed at a rate of ten dollars per hour. IF THE  
3 JUVENILE IS CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF SECTION 13-1602,  
4 SUBSECTION A, PARAGRAPH 5 AND IS ORDERED TO PERFORM COMMUNITY RESTITUTION,  
5 THE COURT MAY ORDER THE PARENT OR GUARDIAN OF THE JUVENILE TO ASSIST THE  
6 JUVENILE IN THE PERFORMANCE OF THE COMMUNITY RESTITUTION IF BOTH OF THE  
7 FOLLOWING APPLY:

8 1. THE PARENT OR GUARDIAN HAD KNOWLEDGE THAT THE JUVENILE INTENDED TO  
9 ENGAGE IN OR WAS ENGAGING IN THE CONDUCT THAT GAVE RISE TO THE VIOLATION.

10 2. THE PARENT OR GUARDIAN KNOWINGLY PROVIDED THE JUVENILE WITH THE  
11 MEANS TO ENGAGE IN THE CONDUCT THAT GAVE RISE TO THE VIOLATION.

12 T. For the purposes of this section:

13 1. "First time felony juvenile offender" means a juvenile who is  
14 adjudicated delinquent for an offense that would be a felony offense if  
15 committed by an adult.

16 2. "Repeat felony juvenile offender" means a juvenile to whom both of  
17 the following apply:

18 (a) Is adjudicated delinquent for an offense that would be a felony  
19 offense if committed by an adult.

20 (b) Previously has been adjudicated a first time felony juvenile  
21 offender.

22 3. "Sexual offense" means oral sexual contact, sexual contact or  
23 sexual intercourse as defined in section 13-1401.